

A Certificate of Resale must contain the items of information set out in 86 Ill. Adm. Code 130.1405. (This is a GIL).

July 30, 1999

Dear Mr.Xxxxx:

This letter is in response to your letter dated May 10, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

This letter is regarding the acceptance of Resale/Exemption Certificates on sales from our company.

Our company has received multiple requests to accept Resale/Exemption Certificates. However, our company is registered as a retailer with your state -- all items are sold at the full retail price. The customers requesting resale exemptions, are mostly computer companies that will resell the purchased products. Although, we are retail company, may we accept Resale/Exemption Certificates from companies/individuals who represent to us that they will mark-up our products and sell it again?

Our company is aware of the process of accepting Resale/Exemption Certificate. We are currently accepting Exemption Certificates only for Non-Profit Organizations.

We would request that we receive written opinion from you concerning this matter. Without written approval, we are reluctant to accept Resale/Exemption Certificates on our normal sales to taxable entities. Please submit written statement of authorization in this regard, at a suitable time, to my attention. Further, we would like to hear your feelings regarding our beforementioned query.

We appreciate your cooperation in this matter. If you have any questions, or require further clarification, do not hesitate to contact me personally at ####.

Under Illinois law, a sale of tangible personal property shall be made tax-free on the ground of being a sale for resale if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that the sale to

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such purchaser is nontaxable because of being a sale for resale. Please refer to 35 ILCS 120/2a.

Sales of tangible personal property, which property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a "sale at retail," are not sales at retail, provided that the property purchased is deemed to be purchased for the purpose of resale. See 86 Ill. Adm. Code 130.210, enclosed.

To purchase items of tangible personal property tax free for the purpose of resale, purchasers must submit properly completed Certificates of Resale to sellers. In order for a Certificate of Resale to be valid in Illinois, it must contain the items of information set out in 86 Ill. Adm. Code 130.1405(b), enclosed.

Although a retail company that normally sells to end users may accept a Certificate of Resale that complies with Section 130.1405, sellers do have an obligation to exercise good faith when accepting Certificates of Resale from purchasers. It has been held to be proper for the Department to not allow Certificates of Resale that contain inaccurate information in the form of inactive or discontinued registration numbers. See Rock Island Tobacco v Department of Revenue (1980), 87 Ill. App. 3d 476, 478.

Regarding non-profit organizations, please be advised that not all such organizations are sales tax exempt under Illinois law. To be exempt, a non-profit organization must generally be organized and operated exclusively for charitable, religious or educational purposes. An organization that qualifies as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain a tax exemption identification number (an "E" number). These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007. Sales to governmental bodies are subject to tax unless the governmental body has obtained an active exemption identification number ("E" number) from the Department. See 86 Ill. Adm. Code 130.2080, enclosed.

Companies selling tangible personal property to these organizations or to governmental bodies must be provided with an "E" number for sales to such organizations or governmental bodies to be exempt from Retailers' Occupation Tax, unless another exemption can be documented.

It is important to note that only sales of tangible personal property invoiced to the organization or governmental body itself are exempt. Sales made to an individual member of an exempt entity are generally subject to tax. Again, the "E" number can only be used by the organization in making purchases in furtherance of organizational purposes.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further

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questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk

Enc.